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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,260	10/17/2001	Johan Paul Marie Gerard Linnartz	NL000558	7206

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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BROWN, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/982,260	<b>Applicant(s)</b> LINNARTZ, JOHAN PAUL MARIE GERARD	
	<b>Examiner</b> Christopher J. Brown	<b>Art Unit</b> 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/17/01, 11/20/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 2 line 18 the examiner believes the word “other” should be “order”. On page 3 line 11, the sentence that begins “Moreover if provides....” lacks a subject. On page 3 line 12, the examiner believes the word proof should be prove.

The instant specification contains no headings. Page 1 should provide for a “Background Of the Invention” heading, page 2 line 15 should provide for a “Summary of the Invention” heading, Page 4 line 20 should provide for a “Brief Description of the Drawings” heading, and page 4 line 30 should provide for a “Description of the Preferred Embodiments”

Appropriate correction is required.

The use of the trademark Bluetooth has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Objections***

2. Claim 1 is objected to because of the following informalities: The examiner believes the word “authentication session” on line 8 should be “another authentication session”. Appropriate correction is required.

Claim 5 contains the trademark/trade name Bluetooth. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a communications protocol and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 112***

3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. The sentence “as described in the Bluetooth

link encryption specification” could comprise any of a plurality of specifications and any of a plurality of parts of those specifications.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 9, 11, 12, 13, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Herlin US 5,915,021.

As per claims 1, 3, 4, 9, 14, and 15 Herlin teaches activating a communication link between devices column 5 lines 35-40). Herlin teaches transmitting data between devices for performing an authentication session for authenticating the devices, wherein a first key is generated, (Col 5 lines 35-48). Herlin teaches that the first authentication session generates a first key (k1), (Col 5 lines 40).

Although not explicitly stated, if the first authentication fails, the procedure will not continue. Herlin teaches that a second authentication session generates a second key (k2), (Col 5 line 45). As per claim 11, Herlin teaches means for receiving information and decrypting the information using a link key, (Col 5 lines 45-50).

As per claim 12, Herlin teaches the device is portable, (Col 6 line 61).

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As per claim 13, Herlin teaches the device comprises means for wireless communication, (Col 7 lines 28-45).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5, 6, 7, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Bluetooth Security Specification Version 1.0B.

As per claims 2, 5, 6, 7, and 16 Herlin teaches generation of a first key and a second key. Herlin fails to teach key merging.

Bluetooth teaches using a first key and a second key and merging them in an XOR fashion to create a new link key, page 156 lines 1-3. It would have been obvious to one of ordinary skill in the art to combine the first and second keys of Herlin to create a more secure system.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Holloway US 5,604,802.

As per claim 8, Herlin does not teach key merging.

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Holloway teaches encrypting one key with another and sending it to a recipient, (Col 9 lines 45-53). It would have been obvious to one of ordinary skill in the art to use k1 of Herlin as the key encrypting key of k2 because it is a one time key and would increase security.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Crane US 6,839,437.

As per claim 10, Herlin does not teach API's.

Crane teaches use of APIs with cryptographic operations and a common data security architecture.

It would have been obvious to one of ordinary skill in the art to modify the system of Herlin with the API of Crane because the API allows for greater flexibility for the design of the system.

### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

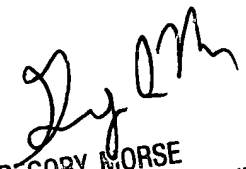
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J Brown

4/27/05



GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
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